

State of Hawaii
Department of Education
Procurement and Contracts Branch
94-275 Mokuola Street, #200
Waipahu, HI 96797
T: (808) 675-0130 F: (808) 675-0133

Registration Form For Online Solicitations

- The Procurement and Contracts Branch (PCB) is not notified when a particular solicitation is viewed or downloaded. Therefore, Offerors interested in responding to this solicitation must first register their participation by completing and submitting this Registration Form.
- The completed Registration Form must be e-mailed or faxed to the PCB Solicitation Contact Person listed below as soon as possible after downloading this solicitation, but in any case, prior to the deadline for offers.
- Only Offerors who are registered will be forwarded addenda and/or other notices related to this solicitation when issued, if any. Failure to register may result in the Offeror not receiving addenda and/or other solicitation related notices, and such offers may therefore be rejected, and not considered for award.
- Failure of the Offeror to receive any such addenda shall not relieve the Offeror of any obligation under this solicitation. It remains the responsibility of the Offeror to complete and submit its offer in accordance with the instructions contained in this solicitation, as well as subsequent interpretations and addenda, if any.

Solicitation Information:

Number:	IFB D17-055
Title:	Furnish a Web-Based Document Management System for Title I Compliance
Deadline:	2:00 p.m. Hawaii Standard Time (HST), January 19, 2017
Contact Person:	Nicole Akena
Contact's e-mail Address:	nicole_akena@notes.k12.hi.us

Offeror Information:

Name of Company Registering:	
Mailing Address:	
Name of Contact Person:	
Contact's e-mail Address:	
Contact's Telephone/ Facsimile No.:	

STATE OF HAWAII
DEPARTMENT OF EDUCATION
PROCUREMENT AND CONTRACTS BRANCH

December 21, 2016

INVITATION FOR BIDS

NO. IFB D17-055

SEALED BIDS

TO FURNISH A WEB-BASED DOCUMENT MANAGEMENT SYSTEM
FOR TITLE I COMPLIANCE

will be received up to 2:00 p.m. (HST)

on

January 19, 2017

in the HDOE Procurement Office, Waipahu Civic Center, 94-275 Mokuola Street, Room 200, Waipahu, Hawaii 96797. Offers received after the established deadline will not be considered.

Questions relating to this solicitation may be directed to Ms. Nicole Akena at telephone (808) 675-0130, facsimile (808) 675-0133, or via email at nicole_akena@notes.k12.hi.us

**TO FURNISH A WEB-BASED DOCUMENT MANAGEMENT SYSTEM
FOR TITLE I COMPLIANCE
IFB D17-055**

Chief Procurement Officer
State of Hawaii, Department of Education
Honolulu, Hawaii 96813

To Whom It May Concern:

The undersigned has carefully read and understands the terms and conditions specified in the Specifications, Special Conditions, and General Conditions, attached hereto and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof. The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

The undersigned represents: **(Check ☒ one only)**

- ☐ A **Hawaii business** incorporated or organized under the laws of the State of Hawaii; **OR**
- ☐ A **Compliant Non-Hawaii business** not incorporated or organized under the laws of the State of Hawaii, but registered at the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division to do business in the State of Hawaii.

State of incorporation: _____

Offeror is:

☐ Sole Proprietor ☐ Partnership ☐ Corporation ☐ Joint Venture ☐ Other _____

Federal I.D. No.: _____ Hawaii General Excise Tax License I.D. No.: _____

Payment address (other than street address below): _____

City, State, Zip Code: _____

Business address (street address): _____

City, State, Zip Code: _____

Date: _____

Respectfully submitted:

Telephone No.: _____

Authorized (Original) Signature

Fax No.: _____

Name and Title (Type or Print)

E-mail Address: _____

* _____
Exact Legal Name of Company (Offeror)

*If Offeror is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which
The awarded contract will be executed: _____

OFFER
IFB D17-055

The following offer is hereby submitted:

Item No.	Description	ESTIMATED QUANTITY (a)	UNIT BID PRICE (b)	TOTAL BID PRICE a x b = (c)
Web-Based Document Management System				
1	Software licenses, inclusive of Technical Support (availability during normal HIDOE business hours)	185 users	\$	\$
Training				
2	Initial 2-day On-Site Set-Up and Training	1 session	\$	\$
3	Complex Area Webinar Training	16 sessions	\$	\$
TOTAL SUM BID PRICE (Items 1 – 3)				\$

WAGE CERTIFICATE

Subject: Project No. IFB D17-055

Description of Project: To Furnish a Web-Based Document Management System for Title I Compliance

Pursuant to §103-55, HRS, I hereby certify that, if awarded a contract in excess of \$25,000.00, the services to be performed will be performed in accordance with the following conditions:

1. The services to be rendered shall be performed by employees paid at wages or salaries not less than wages paid to the public officers and employees for similar work, if similar positions are listed in the classification plan of the public sector.
2. All applicable laws of the Federal and State governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

Contractor shall be obliged to notify its employees performing work under this contract of the provisions of §103-55, HRS, and the current wage rate for public employees performing similar work. The Contractor may meet this obligation by posting a notice to this effect in the Contractor's place of business accessible to all employees, or the contractor may include such notice with each paycheck or pay envelope furnished to the employee

I understand that, in addition to the base wages required by §103-55, HRS, all payments required by Federal and State laws that employers must make for the benefit of their employees shall be paid.

Offeror: _____

Signature: _____

Title: _____

Date: _____

MINIMUM SPECIFICATIONS

The School Transformation Branch is seeking a Web-Based Document Management System for Title I compliance (System) with the following minimum requirements:

SCOPE OF WORK

1. TECHNICAL SPECIFICATIONS:

- 1.1. Licenses for an estimated 185 schools as follows:
 - 1.1.1. Two authorized users for each school
 - 1.1.2. Up to five authorized users for each of the 16 Complex Areas, and
 - 1.1.3. Up to ten authorized users from the Hawaii Department of Education School Transformation Branch.
- 1.2. Ability for the Administrator to set specific permissions for every user in regards to what documents they have access to, deletions, insertions, etc.
- 1.3. Indexing capabilities, so documents can be easily organized, to include but not be limited to Schools, Complex Areas, types of documents, and documents that are due for submission in a similar time frame.
- 1.4. Fully customizable system set up with school folders. Within each school folders, additional folders need to be customizable with documents due, due dates and other necessary information. The school folders need to include but not be limited to new documents to collect, authorized users to collect documents from, and alternative means to contact users for different purposes.
- 1.5. Universal format support: The system needs to accept universal file formats.
- 1.6. Search features that make finding specific documents, schools, and Complex Areas easy.
- 1.7. Set up and implementation shall begin in April, 2017. System shall be fully operational for all authorized users for the 2017-2018 school year.
- 1.8. Administrator Privileges to Hawaii Department of Education School Transformation Branch Staff, who will determine users at the school and complex level.
- 1.9. Log-In Access required for all users.
- 1.10. Ability to electronically sign documents
- 1.11. Ability to upload Title I documents for review and approval from multiple stations statewide (schools, Complex Areas, and HIDOE Offices).
- 1.12. Ability to monitor school Title I documents in real-time, assign due dates and give feedback on the status of document approvals.
- 1.13. Ability to provide alerts to users through email when documents are due, over-due, feedback has been provided, or documents approved.
- 1.14. Ability to safeguard documents according to the Family Educational Rights and Privacy Act (FERPA) mandates.
- 1.15. Ability to store documents electronically for a minimum of seven (7) years, with access to documents granted to HIDOE, during and upon conclusion of the contract term.

- 1.16. Cloud access with a minimum of 250 MB yearly storage capacity per each school for an estimated 185 schools per year.
- 1.17. Ability to use the web based document management system as a communication tool to alert staff when documents are due, overdue, approved, unapproved or feedback is available.
- 1.18. Ability to generate reports (School, Complex Area, and State) based on documents submitted, reviewed and approved/not approved.
- 1.19. System must provide a response time of less than 1 second to users statewide.
- 1.20. System must be able to work with HIDOE schools with internet speeds between 100MB and 1GB.
- 1.21. Technical Support: Access to continued technical support for the System during normal HIDOE business hours (7:45 a.m. – 4:30 p.m. Hawaii Standard Time) by phone or web-based for all users while this product is in use. This support shall include: Help for any issues authorized users encounter during the use of the system, problem diagnosis, accessing training, setup problems, custom enhancements, and other problems/needs encountered by users.

2. SYSTEM TRAINING

- 2.1. Provide an initial 2-day on-site set-up and training to HIDOE School Transformation Branch staff working with the System.
- 2.2. Sixteen (16) webinar trainings, one for each Complex Area where staff in attendance can ask questions and receive personalized help. Should the HIDOE opt to extend the resultant contract beyond the initial contract period, this training may occur annually in order to train new staff.
- 2.3. Ability to access trainings after-the-fact.

SPECIAL CONDITIONS

GENERAL INFORMATION

1. Addenda and Interpretations

Discrepancies, omissions, or questions related to this solicitation shall be communicated in writing to the Hawaii Department of Education (HIDOE) via facsimile at (808) 675-0133 or e-mail to nicole_agena@notes.k12.hi.us for interpretation and must be received no later than seven (7) calendar days prior to the date fixed for the close of offers.

Interpretation(s) if any and any supplemental instructions will be in the form of written addenda that will be made available to all prospective and pre-registered Offeror prior to the date fixed for the opening of offers. Failure of any Offeror to receive any such addenda or interpretations shall not relieve the Offeror of any obligation under this solicitation. All addenda issued shall be incorporated into the resulting contract.

2. Scope

Work under this agreement shall consist of a web-based document management system and shall be in accordance with these Special Conditions, the Specifications, and the General Conditions AG-008 (latest revision).

3. Contract Administrator

For purposes of this contract, Ms. Lisa Wilkinson, or her duly authorized representative or successor in office is designated Contract Administrator (CA). She can be contacted by telephone at (808)305-9894 or via email at lisa_wilkinson@notes.k12.hi.us

The CA is responsible for:

- 3.1. the terms, conditions, quantities, specifications, scope of services, other contract terms, and all decisions relating to the contract;
- 3.2. monitoring the CONTRACTOR'S work, documenting that CONTRACTOR maintains the required insurance coverage (if applicable), resolving contract disputes and discrepancies, evaluating the work of the CONTRACTOR, assuring the services or goods are delivered as required in the contract, and processing payment for services rendered; and
- 3.3. notifying the Procurement and Contracts Branch in the event of change in scope of work, change in the performance period, increase or decrease in total compensation, and/or changes in any other contract terms.

Notwithstanding the responsibilities set forth hereinabove, any coordination of services falling outside those articulated above shall remain with the head of the purchasing agency, as set forth in the attached General Conditions (see General Conditions, paragraph 1, entitled "Coordination of Services by the STATE").

4. Term of Contract

This contract shall commence upon full execution of the contract and shall end on June 30, 2018, subject to the availability of funds as specified in the General Conditions.

This contract may be extended for not more than five (5) additional twelve (12)-month periods upon mutual written agreement of the parties, prior to expiration. As each option(s) to extend is mutually agreed upon, the CONTRACTOR shall be required to execute a supplement to the contract for each additional period. The contract price for the extended period shall remain the same or lower than the initial contract price.

OFFEROR INFORMATION

5. Offeror's Authority to Submit an Offer

The HIDEOE will not participate in determinations regarding an Offeror's authority to perform a service. If there are any questions or doubts regarding an Offeror's right or ability to render a service, the Offeror should resolve those issues prior to submitting an offer. If the Offeror's offer meets specifications and is acceptable and the offer price submitted is the lowest offer, the contract will be awarded to that Offeror.

6. Offeror Qualification

In addition to meeting legal and any other requirements of this solicitation, Offeror must meet these qualifications to be considered for award.

6.1. Experience

Offeror must have at least two (2) years providing web-based management systems, training, and technical support. Offeror must have provided similar scope of services to a similar sized education agency for at least two (2) years.

6.2. References

Offeror shall provide at least three (3) similar sized education agencies for whom the Offeror is currently providing or has provided similar scope of services. References should be able to attest to the reliability of Offeror's services and personnel, and confirm that the Offeror meets the experience requirements. The HIDEOE reserves the right to contact the references listed to inquire about Offeror's length of experience and past and/or current performance.

6.3. HIDEOE Point-of-Contact

Offeror shall designate at least one (1) employee as the HIDEOE point of contact (POC) for this contract. The POC shall be available to receive calls from the HIDEOE during normal HIDEOE business hours (7:45 a.m. – 4:30 p.m. HST) Monday – Friday excluding holidays, and shall be capable of answering questions, resolving problems, and providing follow-up assistance.

Failure on the Offeror's part to meet these requirements may result in rejection of offer. These requirements must remain in effect during the entire contract period. Failure to maintain these requirements may result in cancellation of award.

7. Responsibility of Offerors

Offeror is advised that if awarded a contract under this solicitation, Offeror must furnish proof of compliance with the requirements of §103D-310I, HRS as a pre-requisite to receiving a contract:

- 7.1 Chapter 237, General Excise Tax Law;
- 7.2 Chapter 383, Hawaii Employment Security Law;
- 7.3 Chapter 386, Workers Compensation Law;
- 7.4 Chapter 392, Temporary Disability Insurance;
- 7.5 Chapter 393, Prepaid Health Care Act; and
- 7.6 Chapter 103D-310I, Certificate of Good Standing (COGS) for entities doing business in the State.

Offeror should refer to the "Contract Execution" provision for further information regarding the above-mentioned requirements.

OFFER PREPARATION

8. Offer Page OF-1

Offeror is requested to submit their offer under the company's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable, and to indicate exact legal name in the appropriate space on Offer Page OF-1. Failure to do so may delay proper execution of the contract.

The authorized signature on the Offer Page OF-1 shall be an **original signature in ink**. If unsigned or if the affixed signature is a facsimile or a photocopy, the offer shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the Offeror's intent to be bound.

9. Taxable Transaction

Unless the HRS exempts a person from paying the applicable general excise tax, work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS and Chapter 238, HRS, where applicable. Both out-of-state and Hawaii-based companies are advised that the gross receipts derived from this contract are subject to the general excise tax imposed by Chapter 237, HRS, at the current rate and, where applicable, to tangible property imported into the State of Hawaii for resale, subject to the applicable use tax imposed by Chapter 238, HRS.

The "State of Hawaii Information on Hawaii State Taxes Administered by the Department of Taxation", Publication-1 (Revised 2014) is included herein by reference and available online at <http://files.hawaii.gov/tax/news/pubs/14pub1.pdf>.

10. Tax Exempt Transaction

If, however, an Offeror is a person exempt by the HRS from paying the general excise tax and therefore not liable for the taxes on this solicitation, Offeror shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.

For evaluation purposes, pursuant to §103D-1008, HRS, a tax-exempt offer submitted in response to a solicitation shall be increased by the applicable retail rate of general excise tax and the applicable use tax. Under no circumstance shall the dollar amount of the award include the aforementioned adjustment.

11. Bid Price

Unit bid price shall include all costs for labor, equipment, materials, transportation, mileage, supervision, all applicable taxes, and any other incidental and operational expenses incurred to provide goods and services as specified herein. Unit bid price shall be the all-inclusive cost to the HDOE and no other charges will be

honored. In case of error in extension of bid price, unit bid price shall govern. **Offeror shall bid on all items to qualify for award.**

12. Wage Certificate

Offeror shall complete and submit a *Wage Certificate* by which the Offeror certifies that services required will be performed pursuant to §103-55, HRS. Accordingly, Offeror should consider the public sector wage rates and/or benefits when preparing their offer, as applicable.

Although **Item 1** of the *Wage Certificate* may not be applicable to this solicitation if there are no DOE or public sector employees performing work similar to the requirements herein, **Item 2** of the certificate is applicable in all situations. Offeror is therefore advised that submission of the *Wage Certificate* is required.

13. Offer Guaranty. An offer guaranty (bid bond) is not required for this IFB.

OFFER SUBMITTAL

14. Submission of Offer

Offers shall be received at the HIDEOE, Procurement and Contracts Branch, 94-275 Mokuola Street, Room 200, Waipahu, Hawaii 96797, no later than the date and time stated on the cover page of the IFB. Timely receipt of offers shall be evidenced by the date and time registered by PCB's time stamp clock. Offers received after the deadline shall be returned unopened.

Submission of an offer shall constitute an incontrovertible representation by the offeror of compliance with every requirement of this IFB, and that the IFB documents are sufficient in scope and detail to indicate and convey reasonable understanding of all terms and conditions of performance of the work.

Before submitting an offer, each offeror must:

- 14.1. examine the solicitation documents thoroughly for defects and questionable or objectionable material. Solicitation documents include this IFB, any attachments, plans referred to herein, and any other relevant documentation. Comments must be submitted in writing and received by the HIDEOE, PCB no later than seven (7) calendar days prior to the date fixed for the close of offers. This will allow for issuance of addenda, if necessary, and also prevents against the opening of defective offers.
- 14.2. become familiar with State, local, and federal laws, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work.

Offeror shall submit offer using the exact forms or reproductions of such forms as provided and as otherwise instructed by this IFB. **Faxed or electronically submitted offers will not be accepted or acknowledged and will be automatically rejected.**

The specifications, Special Conditions, General Conditions and other documents referenced in or attached to the offer shall be considered a part of the offer submitted, whether or not attached to the offer at the time of submission. Such documents shall not be altered in any way; any alterations so made by the offeror may result in rejection of the offer.

An offer that contains any omission, erasure, addition not called for, conditional offer or irregularity of any kind may be rejected. Corrections, if necessary, shall be made by lining out the materials to be corrected

and by inserting the correction as close to the line-out as possible. Every such correction must be initialed by the person who signed the offer.

Offeror shall submit his signed offer, together with the offer security when required, in a sealed envelope. The envelope shall be clearly identified with the company's name and address on the upper left corner and the IFB number and due date on the lower left corner.

Offers will be received only until the hour and date set for the opening. Whether or not offers are opened exactly at the established deadline, none will be received after that time. Unless otherwise stated, offeror shall submit only one (1) offer. If more than one offer is submitted, all offers shall be rejected for that item.

15. Confidential Information

If an Offeror believes that any portion of his offer contains information that should be withheld as confidential, then PCB should be so advised in writing.

Offeror shall request in writing nondisclosure of designated trade secrets or other proprietary data to be confidential. Such data shall accompany the offer, be clearly marked, and shall be readily separable from the offer in order to facilitate eventual public inspection of the non-confidential portion of the offer.

Pursuant to Section 3-122-58, Hawaii Administrative Rules (HAR), the head of the purchasing agency or designee shall consult with the Attorney General and make a written determination in accordance with Chapter 92F, Hawaii Revised Statutes (HRS). If the request for confidentiality is denied, such information shall be disclosed as public information, unless the person appeals the denial to the Office of Information Practices in accordance with Section 92F-42(12), HRS.

16. Certification of Independent Cost Determination

By submitting an offer in response to this solicitation, Offeror certifies as follows:

- 16.1. The costs in this IFB have been arrived at independently, without consultation, communication, or agreement with any other Offeror, as to any matter relating to such costs for the purpose of restricting competition.
- 16.2. Unless otherwise required by law, the costs which have been quoted in this IFB have not been knowingly disclosed by the Offeror prior to award, directly or indirectly, to any other Offeror or competitor prior to the award of the contract.
- 16.3. No other attempt has been made or will be made by the Offeror to indicate any other person or firm to submit or not to submit for the purpose of restricting competition.

17. Acceptance of Offer

Acceptance of offer, if any, will be made within sixty (60) calendar days after the close of offers and the prices quoted by the Offeror shall remain firm for the sixty day period.

OFFER EVALUATION

18. Disqualification of Offers

Any one or more of the following causes will be considered as sufficient for disqualification of the offer:

- 18.1. Offer not signed by an authorized individual.
- 18.2. More than one offer from an individual, firm, corporation or joint venture under the same or different names.
- 18.3. Evidence of collusion among Offerors or prices obviously unbalanced, lack of responsibility and cooperation as shown by past work, being in arrears on existing contracts with the State of Hawaii, or defaulting on previous contract(s).
- 18.4. Lack of proper equipment and/or sufficient experience to perform the work contemplated.
- 18.5. Offer received after specified deadline for close of offers.
- 18.6. Evidence of any noncompliance with any applicable law, any unauthorized additions or deletions, of submission of conditional offer, incomplete offer, or irregularities of any kind which may make the offer incomplete, indefinite, or ambiguous as to its meaning.

19. Multi-Step Competitive Sealed Bidding Procedure

This section describes the multi-step procurement process, two steps. Both Technical Proposals and Priced Bids shall be submitted and received up to 2:00 p.m. (HST) on January 19, 2017 at the HDOE Procurement and Contracts Branch, 94-275 Mokuola Street, 200, Waipahu, Hawaii 96797. Both documents must be delivered at the same time but in separately sealed and appropriately identified packages.

In the first step, the UNPRICED TECHNICAL PROPOSAL will be opened and reviewed to verify compliance with the IFB as to form and content. Using the Evaluation & Rating Table (Exhibit A), the evaluation committee will review each Technical Proposal substantively. The committee will assign a score as described in section "Evaluation of Technical Proposals."

The sealed Priced Bids of offerors who fail to receive a minimum qualifying score shall not be opened. Those offerors who fail to receive a minimum qualifying score shall be 1) disqualified from further consideration, and 2) mailed a notice of disqualification along with the offeror's sealed Priced Bid.

In the second step, the sealed PRICED BID submitted by those offerors with a qualifying Technical Proposal will be opened by the Procurement and Contracts Branch immediately following evaluation. Award will be made to the offeror with the lowest Priced Bid in support of the acceptable Technical Proposal.

19.1. STEP 1. TECHNICAL PROPOSALS

19.1.1. PACKAGING OF TECHNICAL PROPOSALS

Offeror shall submit seven (7) sets of the Technical Proposal; one shall be clearly identified as "ORIGINAL", and the others as "COPY". The sealed package for the Technical Proposal must be clearly marked "UNPRICED TECHNICAL PROPOSAL TO PROVIDE A WEB-BASED DOCUMENT MANAGEMENT SYSTEM FOR TITLE I COMPLIANCE, IFB D17-055" and shall indicate the name, address, telephone number, and facsimile number of the offeror.

19.1.2. OPENING OF TECHNICAL PROPOSALS

The opening of Technical Proposals shall not be a public event and proposals will not be subject to public inspection until after the contract has been fully executed.

19.1.3. CONTENT OF TECHNICAL PROPOSAL

This section sets the guidelines for standardization of Technical Proposals to allow for easier comparison. This is not an attempt to limit the content of the submittals in any way. Offeror may include any additional data or information which is deemed pertinent to this IFB. The proposal should be prepared simply and economically, providing a straightforward and concise delineation of the offeror's ability to satisfy the requirements of this IFB.

The Technical Proposal shall be a complete plan for accomplishing the tasks described herein and any supplemental tasks the offeror has identified. Offeror's plan must demonstrate an understanding of and the ability to meet and perform all requirements listed.

The Technical Proposal shall not contain any cost or pricing information in order to facilitate evaluation strictly on the basis of technical merit.

Costs of developing the proposals are solely the responsibility of the offeror, whether or not any award results from this solicitation. All proposals shall become the property of the HIDOE. The successful proposal will be incorporated into the resulting contract.

19.1.3.1. Transmittal Letter

A transmittal letter shall be attached to the Technical Proposal. This letter shall be typed on the company's letterhead, shall indicate the offeror's exact legal name, and shall be signed by an individual authorized to legally bind the offeror. The letter shall include the following information:

- 19.1.3.1.1. A statement that the Offeror understands and shall comply with all terms and conditions of the IFB (including the General Conditions). If an Offeror does not plan to comply with one or more of the terms or conditions of the IFB, this shall be stated; all exceptions shall be listed and fully described.
- 19.1.3.1.2. A statement that no cost or pricing information has been included in the Unpriced Technical Proposal.
- 19.1.3.1.3. A statement that the products and services shall be provided solely by the Offeror or whether a subcontractor(s) will assist. The Offeror's use of subcontractor(s) required the prior written approval of the HIDOE.
- 19.1.3.1.4. If necessary, a statement explaining that portions of the Technical Proposal contains trade secrets or other proprietary data. Offeror shall submit a written request of nondisclosure of said proprietary data. Such data shall accompany the proposal, shall be clearly marked, and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. (Note: If necessary, the HIDOE may consult with the Attorney General's Office and request a written determination of nondisclosure. If the request for confidentiality is denied, such information shall be disclosed as public information, unless the offeror appeals the denial to the Office of Information Practices, AG's Office.)

19.1.3.2. Technical Proposal Presentation

Technical Proposals must be submitted in the format outlined below. Each section should be clearly identified by the appropriate headings as listed. The technical proposal shall respond to all requirements of the IFB. Any additional information should be included as attachments.

19.1.3.2.1. Company Organization

Offeror shall include references, charts, or any information that will demonstrate ability to provide the requested service.

19.1.3.2.2. Company Experience and References

In this section, Offeror shall also provide information on other similar projects successfully completed within the past two (2) years providing web-based document management systems and training. Offeror must have provided similar scope of services to a similar sized education agency for at least two (2) years.

Offeror shall provide at least three (3) similar sized education agencies for whom the Offeror is currently providing or has provided similar scope of services. References should be able to attest to the reliability of Offeror's services and personnel, and confirm that the Offeror meets the experience requirements. The HIDOE reserves the right to contact the references listed to inquire about Offeror's length of experience and past and/or current performance.

19.1.3.2.3. HIDOE Point-of-Contact

In this section, Offeror shall identify and designate at least one (1) employee as the HIDOE point of contact (POC), prior to award and throughout the contract period, for this contract. The POC shall be available to receive calls from the HIDOE during regular Hawaii Standard Time (HST) Monday – Friday excluding holidays, and shall be capable of answering questions, resolving problems, and providing follow-up assistance.

19.1.3.2.4. System Solution

In this section, Offeror shall include a complete plan to provide a Web-Based Document Management System for Title I compliance in accordance with the minimum requirements described herein and any supplemental tasks the Offeror has identified. Offeror's plan must demonstrate an understanding of and the ability to meet and perform all requirements described in this solicitation.

19.1.3.2.5. System Webinar

Offeror shall provide a webinar demonstrating all features and functions of the system, and the system's ability to meet and perform all requirements described in this solicitation. Offeror will be contacted by the HIDOE to schedule the webinar to take place approximately 1-2 weeks following the deadline for offers.

19.1.4. EVALUATION OF TECHNICAL PROPOSALS

19.1.4.1. Evaluation Committee

Technical Proposals shall be evaluated by a committee designated by the HIDOE. This committee may include representatives of other State or local agencies, or any other persons deemed appropriate by the HIDOE.

19.1.4.2. Compliance Review

Before the merits of each Technical Proposal are evaluated, the evaluation committee shall review each proposal to determine whether or not it complies with and is responsive to the requirements of the IFB. The proposals will be reviewed for timeliness of submission, completeness, and compliance with the requirements of this IFB.

Those proposals deemed non responsive shall be rejected from further consideration. A notice of disqualification shall be sent to those offerors whose Technical Proposals are deemed unacceptable.

19.1.4.3. Substantive Evaluation

Those Technical Proposals which survive the Compliance Review shall be evaluated by the Evaluation Committee based upon the Evaluation & Rating Table, Exhibit A.

The total maximum score is 96 points. **The minimum qualifying score is 77 points.** To determine an offeror's qualifying score, an average of the Total Points shall be derived by adding the points of each offeror from each evaluator, and then dividing the total number by the number of evaluators.

The sealed Priced Bids of offerors who fail to receive a minimum qualifying score shall not be opened. The sealed Priced Bids submitted by those offerors with a qualifying Technical Proposal will then be opened and award will be made to the offeror with the lowest Priced Bid in support of the qualifying Technical Proposal.

19.1.5. TECHNICAL PROPOSAL DISCUSSIONS

The HIDOE may conduct oral or written discussions with any offeror who submits an acceptable or potentially acceptable Technical Proposal during Step 1. Mistakes may be corrected or proposals may be withdrawn at any time during Step 1. Following discussions, the HIDOE may issue addenda to the IFB to clarify or modify the IFB requirements. Addenda will be available only to offerors who submitted Technical Proposals.

Offerors may respond to addenda in the form of revised or amended Technical Proposals. Any changes shall be clearly identified and detailed. Deadline for submission of revisions or amendments shall be determined by the HIDOE. All revisions or amendments shall be subsequently incorporated into the offeror's proposal and the resulting contract.

During the discussion process, the HIDOE will not identify methods for improving or correcting a proposal, nor will the HIDOE discuss proposals submitted by other offerors. The HIDOE will not accept additions to a proposal which are deemed unrelated.

19.2. STEP 2. PRICED BID

The Priced Bids shall be submitted in a separate and sealed envelope and identified for "PRICED BID TO PROVIDE WEB-BASED DOCUMENT MANAGEMENT SYSTEM FOR TITLE I COMPLIANCE, IFB D17-055" and shall also indicate the name, address, telephone number, and facsimile number of the offeror. The IFB cover page shall be attached to the offer form, pages OF-1 to OF-3.

The sealed PRICED BID of offerors who are unacceptable shall not be opened. These sealed envelopes shall be returned with the notice of disqualification. The sealed Price Bids submitted by those offerors with an acceptable Technical Proposal will then be opened and award will be made to the offeror with the lowest Priced Bid in support of the acceptable Technical Proposal.

20. Method of Award

Award, if any, shall be to the responsive, responsible Offeror submitting the lowest Total Sum Bid Price.

However, if the Total Sum Bid Price of the qualified low offer exceeds allotted funds, the STATE shall have the option to shorten the contract period or reduce quantities to allow award to be made within the allotted funds. Offeror must submit an offer on all items to qualify for award.

21. Protest

Pursuant to §103D-701, HRS and §3-126, HAR, "Legal and Contractual Remedies", an actual or prospective offeror who is aggrieved in connection with the solicitation or award of a contract may submit a protest. Any protest shall be submitted in writing to the HIDOE's Chief Procurement Officer, c/o the Procurement Office at the above address.

A protest shall be submitted in writing within five (5) working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract.

The notice of award letter(s), if any, resulting from this solicitation shall be posted in the HIDOE Procurement and Contracts Branch at the Waipahu Civic Center, 94-275 Mokuola Street, Room 200, Waipahu, Hawaii 96797

CONTRACT EXECUTION

22. Contract Award

CONTRACTOR receiving award(s) of \$25,000 or more shall be required to enter into a formal written contract. Performance bonds are not required for this IFB. Upon full execution of contract, the HIDOE will issue a fully executed copy to the CONTRACTOR. No work will be undertaken by the CONTRACTOR prior to the commencement date specified on the contract. The HIDOE is not liable for any work, contract costs, expenses, loss of profits, or any damages whatsoever incurred by the CONTRACTOR prior to official starting date.

23. Responsibility of Contractor

CONTRACTOR shall furnish proof of compliance with these requirements of §3-122-112, HAR:

- Chapter 237, General Excise Tax Law;
- Chapter 383, Hawaii Employment Security Law;
- Chapter 386, Workers Compensation Law;
- Chapter 392, Temporary Disability Insurance;
- Chapter 393, Prepaid Health Care Act; and
- One of the following:
 1. Be registered and incorporated or organized under the laws of the State of Hawaii (hereinafter referred to as a "Hawaii business"); or
 2. Be registered to do business in the State of Hawaii (hereinafter referred to as a "compliant non-Hawaii business").

The CONTRACTOR may demonstrate compliance by submitting an original consolidated CERTIFICATE OF VENDOR COMPLIANCE as issued by the State Procurement Office via the online system, "Hawaii Compliance Express." Detailed information about the system and regarding this online application process can be viewed at <http://vendors.ehawaii.gov>.

24. Hawaii Compliance Express.

A *Certificate of Vendor Compliance* may be obtained through the Hawaii Compliance Express (HCE). This service allows CONTRACTORS to register online through a simple wizard interface at <http://vendors.ehawaii.gov>. The *Certificate of Vendor Compliance* provides current compliance status as of the issuance date, satisfies requirements of Chapter 103D-310I, HRS, and is therefore acceptable for contracting purposes. CONTRACTORS that elect to use HCE services are required to pay an annual fee to the Hawaii Information Consortium, LLC (HIC).

25. Timely Submission of All Certificates

The above certificates should be applied for and submitted to the HIDEOE, PCB as soon as possible. If a valid certificate is not submitted on a timely basis for award of a contract, an offer otherwise responsive and responsible may not receive the award.

26. Failure to Execute Contract

Normally, award shall be made within sixty (60) calendar days after the close of offers but in no case will award be made until all necessary investigations are made. After award is made, failure on the CONTRACTORS part to execute a contract as required within ten (10) calendar days (or such further time as the Superintendent may allow) after the Offeror has received the contract for execution shall be just cause for the annulment of the award. The Superintendent reserves the right to cancel or reject this solicitation or all offers in whole or in part when it is in the best interest of the HIDEOE or to award the contract to the next lowest Offeror or may publish another call for tenders, if the lowest offer is non-responsive to the HIDEOE's needs.

27. Availability of Funds

This contract is subject to the availability of funds. Pursuant to Section 103D-309, HRS, except in certain instances, no contract entered into between the STATE and the CONTRACTOR shall be binding or of any force unless the Superintendent certifies that there is an available unexpended appropriation or

balance of an appropriation over and above all outstanding contracts sufficient to cover the amount required by the contract.

If the contract calls for performance or payment in more than one fiscal year (July 1 to June 30), the Superintendent may certify only that portion of the total funds allocated to satisfy the STATE's obligations for payments in the current fiscal year. In that event, the STATE will not be liable for the unpaid balance beyond the end of the current fiscal year, and availability of funds in excess of the amount certified shall be contingent upon future appropriations or special fund revenues. All partially-funded contracts shall be enforceable only to the extent that funds are certified as available. The STATE agrees to notify the CONTRACTOR of such non-allocation at the earliest possible time. The STATE shall not be penalized in the event this provision is exercised. This provision is not meant to permit the STATE to terminate the contract in order to acquire similar equipment or services from a third party.

28. Liability Insurance

The CONTRACTOR shall maintain in full force and effect, during the life of this contract, liability and property damage insurance. This insurance shall protect the CONTRACTOR and his subcontractors, if any, from claims for damages for personal injury, accidental death and property damage which may arise from operations under this contract, whether such operations be by himself or by a subcontractor or anyone directly or indirectly employed by either of them. If any subcontractor is involved in the performance of the contract, the insurance policy or policies shall name the subcontractor as additional insured.

As an alternative to the CONTRACTOR providing insurance to cover operations performed by a subcontractor and naming the subcontractor as additional insured, CONTRACTOR may require subcontractor to provide its own insurance which meets the requirements herein. It is understood that a subcontractor's insurance policy(ies) are in addition to the CONTRACTOR's own policy or policies.

The following minimum insurance coverage(s) and limit(s) shall be provided by the CONTRACTOR, including its subcontractor(s) where appropriate:

<u>Coverage</u>	<u>Limits</u>
<u>General Liability</u> , Commercial (Occurrence Form)	\$2,000,000 aggregate \$1,000,000 combined single limit per occurrence for bodily injury and property damage
<u>Automobile Liability</u> , Comprehensive Combined Single Limit	\$1,000,000 per accident

Each insurance policy required by this contract, including a subcontractor's policy, shall contain the following clause:

- 1) "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."
- 2) "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements. Each insurance policy shall be written by 1) an insurance company licensed to do business in the State of Hawaii, or 2) if not licensed by the State of Hawaii, an insurance company which meets §431:8-301, Hawaii Revised Statutes.

Upon execution of the contract, the CONTRACTOR agrees to deposit with the HIDEOE certificate(s) of insurance necessary to satisfy the HIDEOE that the insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificate(s) therefore on deposit with the HIDEOE during the entire term of this contract, including those of its subcontractor(s), where appropriate. Upon request by the HIDEOE, CONTRACTOR shall be responsible for furnishing a copy of the policy(ies).

Failure of the CONTRACTOR to provide and keep in force such insurance shall be regarded as material default under this contract, entitling the HIDEOE to exercise any or all of the remedies provided herein.

The procuring of such required insurance shall not be construed to limit CONTRACTOR's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract. Notwithstanding said policy(ies) of insurance, CONTRACTOR shall be obligated for the full and total amount of any damage, injury, or loss caused by the CONTRACTOR, its employees, officers, or agents, in connection with this Contract.

The CONTRACTOR will immediately provide written notice to the HIDEOE should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

PERFORMANCE OF CONTRACT

29. Authority of the HIDEOE

The HIDEOE shall decide all questions which may arise as to the work performed, as to the manner of such performance, as to the interpretation of any term, condition or provision, as to the applicability and interpretation of any law, rule or regulation, policies and procedures, as to compensation, or additional reason to service, and as to any other matter which may arise under the Contract. The decision of the HIDEOE in such matters shall be final provided that decision is not in violation of law and not arbitrary, capricious or characterized by abuse of discretion.

30. Quantities

Quantities listed herein are estimated for the period specified. The actual quantities shall depend on the needs of the STATE and funding availability. No guarantee to purchase the exact amounts is intended or implied. In the event the estimated requirements do not materialize in the exact quantities listed herein, such failure shall not constitute grounds for equitable adjustment under this agreement.

The STATE reserves the right to purchase larger or smaller quantities at the prices offered in this solicitation.

31. Confidentiality

The following serves to supplement provision 24 of the General Condition, entitled "Confidentiality of Material" and provision 42, entitled "Confidentiality of Personal Information":

General Confidentiality Obligations. While performing under this Agreement, the CONTRACTOR may receive, be exposed to or acquire confidential information. Such information may include names, addresses, telephone numbers, birthdates, social security numbers, medical information, and other educational, student, or personal employment information. The information may be in written or oral form, fixed in hard copy or contained in a computer data base or computer readable form. Hereinafter, such language shall be collectively referred to as "Confidential Information."

The CONTRACTOR, including its employees, agents, representatives, and assigns shall abide by the following with regards to Confidential Information:

- (i) They shall not disclose to any unauthorized party any Confidential Information, except as specifically permitted by the HIDOE and subject to the STATE's limitations on confidentiality of information and relevant legal requirements of the STATE to include, but not limited to the Family Educational Rights and Privacy Act ("FERPA"). Permission will be granted through a formal written agreement concerning the disclosure of personally identifiable information (PII) from student education records, signed by HIDOE and the CONTRACTOR, and must be provided as an attachment to this contract;
- (ii) They shall only permit access to Confidential Information to employees, agents, representatives, and assigns having a specific need to know in connection with performance under this Agreement; and
- (iii) They shall advise each of their employees, agents, representatives, and assigns of their obligations to keep such Confidential Information confidential.

The CONTRACTOR, its employees, agents, representatives, or assigns shall ensure the security of the Confidential Information. The CONTRACTOR shall provide the HIDOE with a list of individuals (by name and position) who are authorized to handle the Confidential Information (hereinafter referred to as "Authorized Handlers"). Authorized Handlers shall ensure the security of the Confidential Information. Only Authorized Handlers shall have access to the Confidential Information, which will be kept on password protected computers with the hard copy documents kept in a locked file cabinet. The CONTRACTOR shall ensure that procedures exist to prohibit access to the Confidential Information by anyone other than an Authorized Handler.

The CONTRACTOR will be responsible for safeguarding the confidentiality of all Confidential Information it receives from the HIDOE and shall safeguard and protect such documents from unauthorized use, handling, or viewing. The CONTRACTOR shall be liable to the HIDOE and to any person whose records the CONTRACTOR receives custody of under this Contract for records protection for any unpermitted release, viewing, or loss of such records. The CONTRACTOR shall assume liability responsibility for records protection and for the inappropriate or unlawful release of Confidential Information. The CONTRACTOR shall return all documents containing Confidential Information upon completion of the services CONTRACTOR is contracted to provide under this Agreement.

- 31.1. Prior Written Approval. The CONTRACTOR may not i) share Confidential Information or any other data received under this Contract, ii) publish, or iii) distribute such information without the prior written approval of the STATE.
- 31.2. In the event of termination of this Contract, the CONTRACTOR shall return to the STATE all student information received under this Contract and further agrees to destroy any and all copies of, or references to, any student information shared by STATE as a result of this Contract.

32. Inspection and Procedural Changes; Relief Available to State

All work is subject to inspection, evaluation, and approval by the CA. The HIDOE may employ all reasonable means to ensure that the work is being performed in compliance with the contract. Should the CA determine that corrections or changes are necessary in order to accomplish the intent or purpose of the contract, the CA may direct the CONTRACTOR to make such changes.

Failure of the CONTRACTOR to perform any provisions of the Contract (based on the identified portion of unacceptable work received) the HIDOE may determine CONTRACTOR is in non-compliance with Contract requirements and may:

- 32.1. Suspend Payments – Temporarily withhold or disallow all or part of the billing cost/payments pending correction of a deficiency or a non-submission of a required deliverable by the CONTRACTOR;
- 32.2. Seek Reimbursement – Seek reimbursement from the CONTRACTOR or withhold future payments for any funds paid to the CONTRACTOR subsequent to a determination that such was unauthorized, fraudulently obtained, or inappropriately billed; and
- 32.3. Seek Market Value – In the event the CONTRACTOR fails, refuses or neglects to perform the services in accordance with the requirements of these Special Conditions, the Scope of Services or the General Conditions, the STATE reserves the right to purchase, in the open market, a corresponding quantity of the services specified herein and to deduct from any monies due or that may thereafter become due to the CONTRACTOR, the difference between the price named in the contract and the actual cost to the STATE. In case any money due the CONTRACTOR is insufficient for said purpose, the CONTRACTOR shall pay the difference upon demand from the STATE. The STATE may also utilize all other remedies provided by law.

33. Federal Funds

- 33.1. This contract may involve the use of federal funds.

The STATE and CONTRACTOR shall be guided by and subject to the provisions of all Federal and State regulations, directives, guidance and circulars issued for the purposes of implementing the federal program standards.

STATE shall provide the CONTRACTOR with specific Federal and/or State requirements including but not limited to reporting requirements, funding allocations, and timeframes, as they are issued or are otherwise made available to the STATE by the Federal and State government, which requirements shall be binding on the CONTRACTOR as a condition of the CONTRACTOR's performance and as a condition of receipt of funds under this agreement.

It is expressly understood and agreed that the obligation of the STATE to proceed under this contract is conditioned upon the appropriation of funds by the federal government and/or the appropriation of funds by the Hawaii State Legislature and the receipt of federal and/or state funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the Federal government to provide funds of the of the State of Hawaii to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the STATE, the STATE shall have the right to terminate this agreement without damage, penalty, cost or expenses to the State of any kind whatsoever. The STATE shall notify the CONTRACTOR of its right to terminate this agreement in writing. The effective date of termination shall be as specified in the notice of termination.

- 33.2. Suspension and/or Debarment – CONTRACTOR certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transaction by any federal department or agency; (b) have, within a three (3) year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public

(federal, state, or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements of receiving stolen property, and (d) have, within a three (3) year period preceding this Contract, had one or more public transactions (federal, state or local) terminated because of default. See Excluded Parties List System at www.epls.gov.

PAYMENT

34. Invoicing

The CONTRACTOR shall submit an invoice with each request for payment. Original and one (1) copy of the invoice shall be submitted to:

Hawaii Department of Education
School Transformation Branch
2705 Kaimuki Avenue, D-102
Honolulu, HI 96818

All invoices shall reference the Contract number. If a copy is submitted as the original, such invoice shall bear an original signature certifying that the invoice is being submitted as the original.

35. Payment

Section 103-10, HRS, provides that the HIDOE shall have thirty (30) calendar days after receipt of an accepted invoice and satisfactory delivery of goods or performance of the services, to make payment. For this reason, the HIDOE shall reject any offer submitted with a condition requiring payment within a shorter period. Further, the HIDOE shall reject any offer submitted with a condition requiring interest payments greater than that allowed by section 103-10, HRS.

The HIDOE will not recognize any requirements established by the Offeror and communicated to the HIDOE after award of the contract, which requires payment within a shorter period or interest payment not in conformance with section 103-10, HRS.

36. Final Payment

The **final payment** on the contract shall be for services rendered during the billing period just prior to the contract expiration date. In addition to the requirements in the General Conditions, the following shall accompany the final payment invoice:

- A tax clearance certificate, not over two months old and with an original green "certified copy" stamp, shall accompany the invoice for final payment.
- The "Certification of Compliance for Final Payment" (DOE Form-22) with an original signature will be required for final payment.
- In lieu of the above, CONTRACTOR may also submit an original CERTIFICATE OF VENDOR COMPLIANCE as issued by the State Procurement Office via an online system, also referred to as "Hawaii Compliance Express". Details regarding this online application process can be viewed at: <http://vendors.ehawaii.gov/hce/>.

APPROVALS

37. State's General Conditions

The Special Conditions shall serve to supplement the General Conditions; both documents remain part of the Contract with full force and effect. In the case of a conflict between the General Conditions and Special Conditions, the Special Conditions shall control to the extent necessary to resolve the conflict.

38. Approvals

Any agreement arising out of this offer may be subject to the approval of the Department of the Attorney General as to form, and is subject to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

EXHIBIT A

EVALUATION & RATING TABLE

TECHNICAL SPECIFICATIONS	0 Points	1 Point	2 Points	3 Points	4 Points	Total/Notes
1.1 Ability to provide licenses for an estimated 185 schools, with two authorized users for each school, up to five authorized users for each of the 16 Complex Areas, and up to ten authorized users from HIDOE School Transformation Branch.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.2 Ability for Administrator to set specific permissions.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.3 Indexing capabilities that include, but not limited to, organization of documents by schools, Complex Areas, types of documents, and documents that are due for submission in a similar time frame.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.4 Fully customizable system with capabilities to set up the documents gathered in a way that works best for Title I purposes to include but not limited to new documents to collect, new staff to collect documents from, and alternative means to contact users for different purposes.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.5 Universal format support: The system needs to accept universal file formats.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	

EXHIBIT A

TECHNICAL SPECIFICATIONS (cont.)	0 Points	1 Point	2 Points	3 Points	4 Points	Total/Notes
1.6 Search features that include the ability to search by document types, schools, and Complex Areas.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.7 Able to set up and implement by April 2017. System fully operational for all authorized user for the 2017-2018 school year.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.8 Administrator privileges to Hawaii Department of Education School Transformation Branch Staff, who will determine users at the school and complex level.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.9 Log-in Access for all users.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.10 Ability to electronically sign documents	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.11 Ability to upload Title I documents for review and approval for multiple stations statewide (schools, Complex Areas, and HIDOE Offices).	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	

EXHIBIT A

TECHNICAL SPECIFICATIONS (cont.)	0 Points	1 Point	2 Points	3 Points	4 Points	Total/Notes
1.12 Ability to monitor school Title I documents in real-time, assign due dates and give feedback on the status of document approvals.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.13 Ability to provide alerts to users through email when documents are over-due, feedback has been provided, or documents approved.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.14 Ability to safeguard documents according to FERPA mandates.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.15 Ability to store documents electronically for a minimum of seven (7) years.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.16 Cloud access with a minimum of 250 MB yearly storage capacity per each school for an estimated 185 schools per year.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.17 Ability to use the web based document management system as a communication tool to alert staff when documents are due, overdue, approved, unapproved or feedback is available.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	

EXHIBIT A

TECHNICAL SPECIFICATIONS (cont.)	0 Points	1 Point	2 Points	3 Points	4 Points	Total/Notes
1.18 Ability to generate reports (School, Complex Area, and State) based on documents submitted, reviewed and approved/not approved.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.19 System provides a response time of less than 1 second to users statewide.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.20 System must be able to work with HIDEOE schools with internet speeds between 100 MB and 1 GB.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
1.21 Technical Support: Access to continued technical support for the System during normal HIDEOE business hours (7:45 a.m. – 4:30 p.m. HST) by phone or web-based for all users while this product is in use. Support includes: <ul style="list-style-type: none"> • Help for any issues authorized users encounter during the use of the System • Problem diagnosis • Accessing training • Setup problems • Custom enhancements • Other problems/needs encountered by users 	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	

EXHIBIT A

SYSTEM TRAINING	0 Points	1 Point	2 Points	3 Points	4 Points	Total/Notes
2.1 Ability to provide an initial 2-day on-site set-up and training to HIDEO School Transformation Branch staff.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
2.2 Ability to provide sixteen (16) webinar trainings – one for each Complex Area where staff in attendance can ask questions and received personalized help. Should the HIDEO opt to extend the resultant contract beyond the initial contract period, this training may occur annually in order to train new staff.	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
2.3 Ability to access trainings after-the-fact	Does not meet minimum specification	System has limited features to meet this minimum specification	System in need of major improvements to meet this minimum specification	Minimal improvements needed to meet this minimum specification	Fully meets or exceeds this minimum specification	
TOTAL (Total maximum score is 96 points. The minimum qualifying score is 78 points)						

GENERAL CONDITIONS

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GENERAL CONDITIONS

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.
 - b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
 - c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.
 - d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.
 - e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.
 - f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

- g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.

3. Personnel Requirements.

- a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.
- b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.

6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.

- a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:

- (1) The Assignee assumes all of the CONTRACTOR'S obligations;
- (2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and
- (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.

- b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the

Agency procurement officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms and conditions of this Contract are thereby changed.

- c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.
 - d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.
- 7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
 - 8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
 - 9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.
 - 10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.
 - 11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.
 - 12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
 - a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified

period not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:

- (1) Cancel the stop performance order; or
 - (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.
- b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:
- (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and
 - (2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.
- c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.
- d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

- a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the Agency procurement officer may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Agency procurement officer, such officer may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency procurement officer may procure similar goods or services in a manner and upon the terms deemed appropriate by the Agency procurement officer. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and

necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

- c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.
- d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.
- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.
- f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. Termination for Convenience.

- a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.
- b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.

- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

- (1) Any completed goods or work product; and
- (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

The CONTRACTOR shall, upon direction of the Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

- d. Compensation.

- (1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.
- (2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the STATE, the proceeds of any sales of goods and manufacturing materials under subparagraph 14c, and the Contract price of the performance not terminated.
- (3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:
 - (A) Contract prices for goods or services accepted under the Contract;
 - (B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;
 - (C) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);
 - (D) The reasonable settlement costs of the CONTRACTOR, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the

total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

- (4) Costs claimed, agreed to, or established under subparagraphs 14d(2) and 14d(3) shall be in accordance with Chapter 3-123 (Cost Principles) of the Procurement Rules.

15. Claims Based on the Agency Procurement Officer's Actions or Omissions.

- a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

- (1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:

- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
- (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
- (C) Within such further time as may be allowed by the Agency procurement officer in writing.

- (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;

- (3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and

- (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.

- b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

- c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

- a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.
- b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
- c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.

17. Payment Procedures; Final Payment; Tax Clearance.

- a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.
- b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.
- c. Prompt payment.
 - (1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and
 - (2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.
- d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.

18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.

19. Modifications of Contract.

- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
- b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.

- c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:
 - (A) Changes in the work within the scope of the Contract; and
 - (B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.
 - d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.
 - e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.
 - f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.
 - g. Head of the purchasing agency approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 and ten per cent (10%) or more of the initial contract price, must receive the prior approval of the head of the purchasing agency.
 - h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.
 - i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.
20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:
- (1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;
 - (2) Method of delivery; or
 - (3) Place of delivery.
- a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By

proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

- b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.
- c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.
- d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. Price Adjustment.

- a. Price adjustment. Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:
 - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (2) By unit prices specified in the Contract or subsequently agreed upon;
 - (3) By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;
 - (4) In such other manner as the parties may mutually agree; or
 - (5) In the absence of agreement between the parties, by a unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126, HAR.
- b. Submission of cost or pricing data. The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

22. Variation in Quantity for Definite Quantity Contracts. Upon the agreement of the STATE and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in this Contract, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the Agency procurement officer makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

23. Changes in Cost-Reimbursement Contract. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

- a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:
 - (1) Description of performance (Attachment 1);
 - (2) Time of performance (i.e., hours of the day, days of the week, etc.);
 - (3) Place of performance of services;

- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;
 - (5) Method of shipment or packing of supplies; or
 - (6) Place of delivery.
- b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.
 - c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.
 - d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.
 - e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.
24. Confidentiality of Material.
- a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
 - b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.
25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.
26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.
27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
 - b. A state contract, including subcontracts, other than a firm fixed-price contract.
29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.
- If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.
30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.
31. Records Retention.
- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
 - (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.
32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.
36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.
38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.
40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.
41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-355, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.
42. Confidentiality of Personal Information.
- a. Definitions.
- "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:
- (1) Social security number;
 - (2) Driver's license number or Hawaii identification card number; or

- (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

- (1) All material given to or made available to the CONTRACTOR by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.
- (2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.
- (3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.
- (4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.
- (5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.
- (6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

- (1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.
- (2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:
 - (A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;
 - (B) Access to the personal information will be allowed only as necessary to perform the Contract; and
 - (C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

- (1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or
- (2) Immediately terminate this Contract.

In either instance, the CONTRACTOR and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

e. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.